



Atty. Dkt. No. 040283-0192

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Applicant: David Reginald ADAMS

Title: PIRAZINO(AZA)INDOLE  
DERIVATIVES

Appl. No.: 09/890,186

Filing Date: 10/09/2001

Examiner: Unassigned

Art Unit: Unassigned

#8  
3/9/02  
Mw

**RESPONSE TO RESTRICTION REQUIREMENT**

Commissioner for Patents  
Washington, D.C. 20231

Sir:

In response to the Office Action dated January 14, 2002, Applicants hereby elect the claims of Group IX, claims 21-25 and 28-30, drawn to various methods of using compounds of formula 1 where  $X^1$ ,  $X^2$ ,  $X^3$  and  $X^4$  may be either N or  $CR_4$ , for prosecution in the subject application. The election is made with traverse.

Restriction between members of a chemical Markush group is generally improper where there is a common utility and reasonable structural unity. Here, there is common utility, as shown by the fact that a single group of claims, Group IX, for methods of using all of the compounds was presented by the Examiner. The compounds all are disclosed as 5-H<sub>2</sub> receptor ligands (specification, page 3, lines 10-16), further attesting to unity of invention for all of the compounds and their method of use. The only structural difference is the number and location in an aromatic ring of N atoms and CR groups. It is apparent that such structural differences do not negate the general utility and, *a fortiori*, do not negate unity of invention. Therefore, it is respectfully urged that the restriction requirement be withdrawn.

Applicants, of course, reserve the right to file one or more divisional applications covering the subject matter of the non-elected claims.

Receipt of the initial Office Action on the merits is awaited.

Respectfully submitted,

Date

Feb. 14, 2002

By

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